

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JOSE CLAROS-CRUZ

v.

UNITED STATES OF AMERICA

:
:
: CIVIL NO. CCB-10-3455
: Criminal No. CCB-09-0413
:
...o0o...

MEMORANDUM

Federal prison inmate Jose Claros-Cruz has filed a motion under 28 U.S.C. § 2255 challenging various aspects of his sentencing following his guilty plea to importation of cocaine. The sentencing transcript demonstrates that all his arguments are without merit.

First, Claros-Cruz was not eligible for a safety-valve reduction because of his criminal history category, which was correctly calculated as II. His counsel nonetheless obtained a departure for overrepresentation, and Claros-Cruz was sentenced to 30 months instead of the higher mandatory minimum. This reflected his acceptance of responsibility and was a favorable result. Claros-Cruz showed no “exceptional remorse” at sentencing; indeed, he chose not to speak. Nor was there any showing of harsh pretrial conditions, as he remained on release for most of the time pending plea and sentencing. Further, there was no ICE detainer placed on him as of sentencing. In short, Claros-Cruz’s arguments that his counsel was ineffective are unsupported by anything in the record. His § 2255 motion will be denied, and a certificate of appealability is not warranted under 28 U.S.C. § 2253(c).¹

A separate Order follows.

November 13, 2012
Date

/s/
Catherine C. Blake
United States District Judge

¹ Claros-Cruz is free to seek a certificate of appealability from the Fourth Circuit.